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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

BODDIE, WILLIAM

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/935,249
Filing Date: August 22, 2001
Appellant(s): BARON ET AL.

Brian S. Rosenbloom
For Appellant

SUPPLEMENTAL EXAMINER'S ANSWER

This is in response to the appeal brief filed July 2nd, 2007 appealing from the Office action mailed May 25, 2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of invention contained in the brief is partially correct. Independent claims 1, 9 and 13 do not contain all the limitations as listed under SUMMARY OF CLAIMED SUBJECT MATTER.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following US Patents were relied upon in the rejection of the claims:

Thomas (US 6,567,101)

Silverbrook et al. (US 6,405,055)

Feinstein (US 6,466,198).

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 and 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (6567101) in view of Silverbrook et al. (6405055).

Thomas discloses an electronic device such as a wireless phone (col. 1, lines 15-17) comprising: a three-axis acceleration sensor for detecting an acceleration (col. 4, lines 39-46) motion of the device and generating an acceleration signal, wherein the acceleration motion includes a vertical and horizontal pivoting motion, and a horizontal rolling motion; a display for displaying graphical image; and a processor for receiving the acceleration signal and moving a graphical selection indicator based the acceleration signal.

Thomas does not disclose the electronic device being an image capturing device.

Silverbrook discloses an electronic device such as a wireless phone comprising a camera for capturing image information (col. 2, lines 66-67).

In light of Silverbrook, it would have been obvious to one ordinary skill in the art to use Silverbrook's camera in Thomas' wireless phone because of the same purpose as Silverbrook uses in the his/her invention, which is for capturing image information.

3. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feinstein (6466198) in view of Thomas and Silverbrook et al.

Feinstein discloses an electronic device such as a wireless phone (col. 1, lines 23-26) comprising: a three-axis acceleration sensor for detecting an acceleration motion of the device and generating an acceleration signal, wherein the acceleration motion includes a vertical and horizontal pivoting motion, and a horizontal rolling motion; a display for displaying graphical image; a processor for receiving the acceleration signal and moving the graphical image based the acceleration signal; an enabling means for enabling and disabling the movement of the image; and means for using a predetermined threshold for controlling the image movement in the display device.(col. 9, lines 15-22).

Feinstein discloses moving the graphical image, but not the graphical selection indicator, in response to the acceleration signal.

Thomas, in the same electronic field, discloses an electronic device comprising generating means for generating an acceleration signal, and moving means for moving a graphical image (e.g. text image) and a graphical selection indicator (cursor) in response to the acceleration signal.

In light of Thomas, it would have been obvious to one ordinary skill in the art use Thomas' moving means for moving a graphical selection indicator in Feinstein's device. This would have been obvious because Thomas teaches that the moving means for moving the graphical image can be used for moving the graphical selection indicator.

The modified Feinstein does not disclose the electronic device being an image capturing device.

Silverbrook discloses an electronic device such as a wireless phone comprising a camera for capturing image information (col. 2, lines 66-67).

In light of Silverbrook, it would have been obvious to one ordinary skill in the art to use Silverbrook's camera in the wireless phone of the modified Feinstein because of the same purpose as Silverbrook uses in the his/her invention, which is for capturing image information.

(10) Response to Argument

1. Claims 1-3 and 13-19 are [not] patentable over Thomas in view of Silverbrook.

A. Independent Claim 1

Appellant argues that Thomas does not teach or suggest a plurality of displayed icons and a graphical selection indicator for selecting the displayed icons. The examiner respectfully disagrees with appellant's arguments. Thomas teaches a digital information appliance used as an Internet display device, an organizer, electronic book, a wireless phone, or the like (col. 1, lines 15-18; col3, lines 35-44). Thomas also teaches using the digital information appliance to view and interact with both text and graphics (col. 3,

lines 42-44). Thomas further teaches the digital information appliance comprising an input device (acceleration sensors) which acts as a **mouse** for moving a cursor on a display screen of the appliance (col. 1, lines 24-30). The mouse is known to use for moving a cursor on a display screen to select an icon image from an icon graphical user interface as such the Microsoft graphical user interface. It is also known that a conventional digital information appliance, for example the Palm Pilot, comprises an icon graphical user interface. Therefore, Thomas' digital information appliance inherently comprises an icon graphical user interface (a plurality of icons) because it is known that a conventional digital information appliance such as the Palm Pilot comprises an icon graphical user interface (a plurality of icons). Since Thomas also teaches the input device (acceleration sensors) acts as the **mouse** for moving the cursor on the display screen of the appliance, it would have been obvious to one of ordinary skill in the art that Thomas inherently teaches the input device (acceleration sensors) acts as the **mouse** for moving the cursor on the display screen to select an icon from the icon graphical user interface.

B. Independent Claim 13

Appellant argues that Thomas does not teach or suggest displaying a plurality of mode variables. The examiner disagrees with appellant's argument because Thomas clearly teaches displaying a plurality of modes such the Internet, an electronic book, an organizer, or the like (col. 1, lines 14-18). In addition, Thomas inherently teaches, as evident from above, displaying a plurality of icons which represent a plurality of applications (a plurality of mode variables).

Appellant further argues that a mode variable is a "setting that the user can change during operation of the image capturing device". This argument is irrelevant because claim 13 does not require the limitation as argued.

C. Dependent Claim 2

Appellant argues that Thomas does not teach or suggest a "three acceleration sensors, with each sensor being positioned along a unique axis," The examiner disagrees with appellant's argument because Thomas teaches an acceleration sensing means for sensing the movements of the digital information appliance about three axes (X, Y, Z, see Figs. 2-5). The acceleration sensing means inherently comprises three sensors because each movement about each axis requires a sensor. Thomas also teaches a variety of sensors are used in the invention (col. 8, lines 46-50).

D. Dependent Claims 3, and 14-19

For the above reasons, the rejections of these claims sustained.

2. Claims 1-20 are [not] patentable over Feinstein in view of Thomas and Silverbrook

A. Independent Claim 1

As discussed above, Thomas inherently teaches the input device (acceleration sensors) acts as the **mouse** for moving the cursor on the display screen to select an icon from a plurality of icons. Therefore, the combination of Feinstein, Thomas and Silverbrook teaches the claimed features.

B. Independent Claim 9

Again, Thomas inherently teaches the input device (acceleration sensors) acts as the **mouse** for moving the cursor on the display screen to select an icon from a plurality of icons.

Appellant argues that Feinstein does not teach or suggest "a memory ... storing a predetermined threshold ... wherein [a] processor moves said graphical selection indicator ... if said acceleration signal exceeds said predetermined threshold." Appellant then recites Col. 9, lines 48-57 and Claim 13 from Feinstein's invention, and states that Feinstein does not disclose comparing an acceleration signal to a threshold, as is required by claim 9. The examiner disagrees with appellant's arguments because of the following reasons. Feinstein teaches two different thresholds at two different areas of his invention. The first threshold is disclosed at col. 9, lines 15-22. This teaching of the first threshold was used in the examiner's rejections. The second threshold, which is different from the first threshold, is disclosed at Col. 9, lines 48-57. This threshold was not used in the examiner's rejections. Therefore, appellant's argument with regarding to this (second) threshold is irrelevant. Although, Feinstein does not explicitly disclose storing the first threshold in a memory, but it is known to one of ordinary in the art the threshold [value] must be stored so that the threshold [value] can be retrieved when it is needed to prevent the acceleration sensors from inadvertently activated.

Appellant argues that Feinstein does not teach or suggest "a memory ... storing a slew rate variable ... wherein a movement speed of said graphical selection indicator is controlled by said slew rate." The examiner disagrees with appellant's argument. Feinstein teaches a computer control navigation system which comprises acceleration

sensors for generating acceleration signals to control movements of displayed images. Since the speeds of the movements are corresponds to the acceleration signals, a plurality of speed values must be created and stored so that a proper speed can be outputted when a correspond acceleration signal is generated.

C. Independent Claim 13

As discussed above, Thomas teaches "displaying a plurality of mode variables ... and moving a graphical selection indicator among said plurality of mode variables in response to said acceleration signal."

D. Dependent Claim 4

As discussed above, the combination of Feinstein, Thomas or Silverbrook teaches the claimed features.

E. Dependent Claim 5

As discussed above, the combination of Feinstein, Thomas or Silverbrook teaches the claimed features.

F. Dependent Claim 6

As discussed above, the combination of Feinstein, Thomas or Silverbrook teaches the claimed features.

G. Dependent Claim 10

As discussed above, the combination of Feinstein, Thomas or Silverbrook teaches the claimed features.

H. Dependent Clam 20

As discussed above, the combination of Feinstein, Thomas or Silverbrook teaches the claimed features.

I. Dependent Claims 2, 7-8, 11-12, and 14-19

As discussed above, the combination of Feinstein, Thomas or Silverbrook teaches the claimed features.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

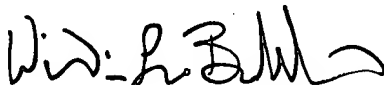
(12) Remarks

This Supplemental Examiner's Answer is similar to the previous Examiner's Answers with the exception of "(8) Evidence Relied Upon" section.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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Conferees:

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